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March 19, 2002

WRITTEN EX PARTE

Mr. William Caton
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

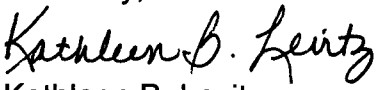
Re: CC Docket No. 02-35

Dear Mr. Caton:

I am filing the attachments to this letter in response to the request of Common Carrier Bureau staff for a report on the ongoing discussions between BellSouth and COVAD, the goal of which is to resolve ordering and provisioning issues previously raised by COVAD. The staff made this request during a meeting with BellSouth representatives on February 27, 2002 related to issues discussed in BellSouth's application. I am also sending a copy of these documents to James Davis-Smith of the Department of Justice's Telecommunications Task Force.

In accordance with Section 1.1206, I am filing two copies of this notice and the accompanying attachments and request that you place them in the record of the proceeding identified above. Thank you.

Sincerely,


Kathleen B. Levitz

Attachments

cc:	Renee Crittendon	Ian Dillner
	Pam Megna	Dennis Johnson
	Susan Pié	Aaron Goldberger
	James Davis-Smith	Daniel Shiman

BELLSOUTH

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March 12, 2002

Ms. Catherine F. Boone
Vice President, External Affairs
Covad Communications Company
10 Glenlake Parkway
Suite 130
Atlanta, Georgia 30328-3473

Dear Cathy:

This is in response to Terry Moya's January 22, 2002 letter and in response to questions that arose in the meeting between BellSouth and Covad on February 19, 2002. With the exception of Covad's Issue 2, which was closed to Covad because Covad had a software vendor problem, and Issue 4, which requires additional work between Covad and BellSouth, BellSouth has either resolved or made progress toward the resolution of each issue presented by Covad. Additionally, I will also use this opportunity to respond to Tom Allen's January 22, 2002 letter to Marc Cathey regarding BellSouth's proposal that Covad order Integrated Services Digital Network (ISDN) rather than the Unbundled Digital Carrier/Integrated Digital Subscriber Line (UDC/IDSL) loop for Covad's IDSL Service. This issue was also discussed with Covad during the meeting on February 19, 2002. Following are Covad's specific issues with BellSouth's response to each issue:

Covad Issue 1:

Electronic capability for pre-ordering and ordering through Electronic Data Interchange (EDI)

BellSouth Response:

UDC/IDSL - BellSouth currently offers CLECs the option to order UDC/IDSL loops manually or electronically. Electronic ordering of the UDC/IDSL loop was made available for all mechanized interfaces, including Electronic Data Interchange (EDI), on February 2, 2002.

Asymmetrical Digital Subscriber Line (ADSL) Compatible Loop without conditioning - BellSouth has offered electronic ordering of an ADSL compatible loop, including ordering via EDI, since February 12, 2001.

Line Sharing without conditioning - BellSouth has offered electronic ordering of Central Office (CO)-based Line Sharing (BellSouth-owned splitter) via all interfaces, including EDI since September 30, 2000.

ADSL Compatible Loop/Line Sharing with conditioning - BellSouth does not currently offer electronic ordering of an ADSL compatible loop or Line Sharing with conditioning. This enhancement previously had been considered in the Change Control Process (CCP) and it was determined to be not feasible due to the time and cost relative to demand at the time the request

was evaluated. Based upon the discussion at the Covad/BellSouth February 19, 2002 meeting and the subsequent data provided by Colette Davis of Covad, BellSouth is re-evaluating the business case and the electronic ordering capability options. I understand you participated in a meeting on March 7, 2002, in Atlanta between BellSouth's Product Management Team and Covad to seek Covad's input in assessing the viability of options for electronic ordering of loops/line sharing with conditioning. We look forward to continuing discussions on this matter.

Unbundled Copper Loop-Non Designed (UCL-ND) – The UCL-ND is currently ordered through a manual process. Covad submitted Change Request CR0541 on November 5, 2001, which is being considered via the Flow Through Task Force (FTTF). This Change Request has been opened to expedite through Planning & Analysis. BellSouth should have a targeted implementation date available by no later than March 30, 2002.

Pre-order functionality for EDI is not targeted for implementation in 2002. This request was prioritized on April 25, 2001, as CR0101 Item 26 by the CLECs that participate in the CCP.

Covad Issue 2:

False jeopardy notifications

BellSouth Response:

This was not a BellSouth problem, but rather a programming problem on the part of Covad's software vendor. Mike Clancy of Covad closed this issue with Bill French of BellSouth on or about January 29, 2002.

Covad Issue 3:

Process improvement on conditioned loops.

BellSouth Response:

BellSouth disagrees with Covad's statement that "BellSouth's loop qualification data is not accurate, so during the provisioning process, BellSouth sometimes finds load coils on the loops Covad has ordered." BellSouth's Loop Facilities Assignment & Control System (LFACS) database is very accurate, although it certainly is not perfect. However, Covad's real issue appears to relate to a concern about the need to issue two orders when BellSouth discovers load coils on a loop ordered by Covad. This concern is being addressed as a project in the Change Request CR0622 FTTF-33. The Change Request was submitted by Covad on January 17, 2002, and is currently being reviewed by BellSouth. BellSouth is optimistic that it will be able to implement this Change Request but it will take time to work out the procedures.

Covad Issue 4:

Deployment of interactive voice recognition (IVR) loop acceptance process.

BellSouth Response:

Based on the February 19, 2002 meeting and information Colette Davis shared with Bill French on February 25, 2002, I would like to request that Covad work with Bill French on the IVR loop acceptance process. I have asked Bill to work with BellSouth's Network Operations Staff to review

Covad's request as well as facilitate any contacts between Covad and BellSouth. At the end of the BellSouth review period, which should last no more than sixty days, BellSouth will provide Covad with a written response as to its evaluation of Covad's IVR process. Covad provided contacts from two other Incumbent Local Exchange Carriers (ILEC) who are currently utilizing the IVR process. Representatives from BellSouth have already talked with one of those contacts to gain further insight on this issue. In addition, the IVR information provided by Covad has been given to BellSouth's Regional Operations Wholesale Performance Team for evaluation.

Covad Issue 5:

Single source of information for status of loops.

BellSouth Response:

BellSouth does not have a sole-source or "single" database that it can consult to ascertain all information concerning the status of every retail order as it flows through the ordering and provisioning process. In fact, BellSouth personnel must access and review multiple databases to obtain complete status information. Unlike on the retail side, BellSouth has significantly streamlined the process by which CLECs can obtain information on their orders.

When Covad seeks the status of a Local Service Request (LSR) for which it is awaiting a Firm Order Confirmation (FOC), Covad can review the Purchase Order Number (PON) status report, which is available either electronically or manually.

After a FOC has been returned, Covad has a single source for order status information in the CLEC Service Order Tracking System (CSOTS). CSOTS provides the status of all orders for UNEs for both provisioning and billing purposes. CSOTS also allows a CLEC to track the status of both manually and mechanically submitted requests. CSOTS was modified in April 2001 to allow CLECs to also view the end user's service order status. CLECs are not required to go to multiple databases to obtain order status or completion notifications.

As a separate informational tool, BellSouth provides Covad with the COSMOS or SWITCH Connecting Facility Assignment (CFA) Report (depending upon the state location) to confirm the order status as either "working" or "pending". A status of "working" shown in the CFA Report is a reliable indication that the Line Sharing UNE order has been provisioned. This report is completed and posted to the BellSouth Interconnection Services' Web site by 8:00 PM, seven days a week. The information available through the SWITCH report is very accurate, since this is the system that is used to generate the report and is the same system that provides BellSouth technicians with work assignments. BellSouth's technicians also use this system to complete and close out their work orders. BellSouth believes that all of the information that it provides to Covad to ascertain the status of its orders is accurate and complete.

Covad Issue 6:

Implementation of performance data and Operations Support System (OSS) process and procedure changes from the Florida OSS test.

BellSouth Response:

BellSouth is currently working to resolve Pending Exceptions in the Florida Third Party Testing.

Covad ISDN/UDC/IDSL Issue *(Tom Allen's January 22, 2002 letter)*

BellSouth's proposal that Covad order ISDN rather than the UDC/IDSL loop for Covad's IDSL Service.

BellSouth's Response:

Based on our discussion of BellSouth's electronic ordering capabilities at the February 19, 2002 meeting and subsequent discussions with BellSouth's Product Management, it is apparent the electronic ordering concerns have been resolved as of the February 2, 2002 implementation of UDC/IDSL electronic ordering capability. But as we discussed at the February 19, 2002 meeting, BellSouth's network is now capable of providing IDSL on virtually every ISDN loop; therefore, BellSouth encourages Covad to order ISDN loops, as it is a win-win for both our companies. Covad can attain optimum flow through by ordering ISDN loops in lieu of UDC loops. In regards to the ISDN/UDC rate difference, BellSouth would like to propose modifications to Covad's Interconnection Agreement. I have asked the BellSouth Contract Negotiations team to directly contact their Covad negotiations contacts regarding this offer.

Other Issues from the February 19, 2002 Meeting:

I want to confirm that BellSouth is researching the UCL-ND Purchase Order Numbers (PON) you indicated were turned up in a non-working condition as well as the defects for which you requested a status. I expect to follow up with you on these issues within the next two weeks.

Based on the issues and concerns raised in the Terry Moya's January 22, 2002 letter, the February 19, 2002 meeting and Tom Allen's January 22, 2002 letter, I believe you will agree that BellSouth is taking steps to resolve Covad's concerns and has made progress. I look forward to the continuation of a positive dialogue between our two companies.

Sincerely,

Ernest Bush
Vice President – Long Distance Entry



January 22, 2002

VIA U.S. MAIL and FACSIMILE

Ernest L. Bush
Vice President - Long Distance Entry
BellSouth Telecommunications
Room 38L64 - BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375

Re: **Operational Improvements Necessary before BellSouth Re-applies
For Authority to Enter the Long Distance Market**

Dear Ernest:

BellSouth recently withdrew its applications to the FCC for long distance authority in Louisiana and Georgia. Covad participates in the 271 process for the sole purpose of insuring that BellSouth and other ILECs provide the nondiscriminatory treatment required by the law and necessary for our success. As you know, Covad strongly opposed BellSouth's applications at the FCC and we believe that the FCC would have rejected BellSouth's applications, had you not withdrawn them. During the pendency of BellSouth's application, Covad showed that the significant failures in BellSouth's performance and OSS as it related to DSL loops in particular prohibited BellSouth's entry into the long distance market. Those issues were later highlighted by the FCC Chairman Michael Powell when he released a public statement confirming that "questions remain regarding whether BellSouth has satisfied the rigorous requirements of the statute and our precedents."

Because you will likely be refiling those applications shortly, I wanted to provide you a specific list of the issues we have raised before regulators in opposition to your long distance applications, in the hope that you will insure that those issues are addressed before your applications are refiled. It is in the interest of both Covad and BellSouth to see these issues resolved rapidly. BellSouth acts as Covad's sole supplier of essential network elements throughout the BellSouth region and BellSouth's commitment to resolve these issues is critical to Covad's success as a competitive provider.

(1) Electronic capability for pre-ordering and ordering through EDI for all BellSouth UNE products utilized by Covad, including specifically the following: UDC/IDSL loop, ADSL with and without conditioning, linesharing with and without conditioning, UCL- ND. Currently, EDI pre-order and order capability is available from all BOCs except BellSouth.

(2) Immediate resolution of false jeopardy notifications through EDI. BellSouth issues a jeopardy notification on every ADSL and line sharing order placed

through EDI. These loops are not really in jeopardy, and BellSouth's process disrupts the UNE provisioning process and destroys the efficiencies of electronic ordering.

(3) Process improvement on conditioned loops. BellSouth's loop qualification data is not accurate, so during the provisioning process BellSouth sometimes finds load coils on the loops Covad has ordered. Covad must then cancel the initial order and submit a second LSR with conditioning requested. Other BOCs allow Covad to indicate on the initial LSR a willingness to pay for conditioning if it is necessary, thus eliminating the need to cancel and resubmit the order.

(4) Deployment of interactive voice recognition (IVR) loop acceptance process. Covad has developed this system to eliminate manual participation in joint acceptance testing, which will allow BellSouth technicians to test the loop and receive an acceptance code without having to speak to a live person at Covad. Although other BOCs have agreed to trial this system, BellSouth has refused.

(5) Single source of information for status of loops. Currently, BellSouth requires Covad to check CSOTS, COSMOS/SWITCH, and PON status reports to determine order status. Even in EDI and LENS, status indicators do not necessarily match the actual work being done. Whereas BellSouth retail compiles status information from these various sources into a single electronic status report, BellSouth does not make such capabilities available to Covad.

(6) Implementation of performance data and OSS process and procedure changes from Florida OSS test. BellSouth must resolve pending exceptions that have arisen in the Florida OSS test and make the appropriate responsive changes to its OSS.

I believe that BellSouth's timely resolution of these issues will provide a more compelling case in support of BellSouth's subsequent long distance applications. I look forward to the opportunity to meet with you personally to discuss these issues, or to provide greater detail so you can direct the appropriate BellSouth personnel to resolve these issues quickly. Thank you in advance for your attention to this important matter.

Sincerely yours,
Terry J. Moya

Terry J. Moya
Executive Vice President,
ILEC Relations and External Affairs

cc: Marcus Cathey



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January 22, 2002

Marcus B. Cathey
Sales Assistant Vice President
BellSouth Telecommunications, Inc.
Interconnection Services
600 North 19th Street
Birmingham, AL 35203

Re: BellSouth's Proposal that Covad Order ISDN rather than the UDC/IDSL
loop for Covad's IDSL Service

Dear Marc:

I am writing to respond to BellSouth's recent proposal that Covad begin ordering the ISDN loop again for Covad's IDSL service so that Covad can use the mechanized gateway already in place for the ISDN loop. It is my understanding that BellSouth proposes this as an interim solution until the IDSL loop ordering process is mechanized. Covad has several serious concerns with this proposal.

As you may recall, what BellSouth now proposes is exactly what Covad wanted in November 1999. At that time provisioning problems with the Marconi DLC system were first detected. Covad argued that the Marconi problem was minor and that BellSouth could solve it by provisioning ISDN lines over those DLC systems differently. Instead, BellSouth was determined to develop a new loop product that would uniquely identify these loops as loops used for IDSL service and wanted to charge Covad more for this new loop. Eventually, the Georgia Commission had to order BellSouth to continue to provide these loops to Covad at no additional charge. Ultimately, BellSouth developed a new product for Covad to order called the UDC/IDSL loop, which we agreed to order at the ISDN rates. On that basis, in September 2000, Covad and BellSouth executed an interconnection amendment that requires Covad to order this loop for its IDSL service. BellSouth forced Covad down the path of implementing processes to order the new UDC/IDSL loop. For over a year and a half, Covad has worked diligently with BellSouth to improve the provisioning of those UDC/IDSL loops. Covad can ill afford to lose the time or money it would take to implement yet another change in the loop type we order. Moreover, our customers will not tolerate delayed provisioning or unnecessary problems once the loop is provisioned. If BellSouth had offered this solution in November 1999, we might be in a different place today.

Covad has concerns with changing the type of loop we order. First, Covad's Interconnection Agreement with BellSouth specifically requires Covad to order the UDC/IDSL loop for its IDSL service. To change the type of loop we order, the IA would have to be amended. Second, because BellSouth persuaded Covad to order the UDC/IDSL loop exclusively, Covad's advocacy in various state cost proceedings focused on the UDC/IDSL rather than the ISDN loop. As a result, the ISDN loop rate is dramatically higher than the UDC/IDSL rate in several states, including Georgia (\$233 NRC v. \$44.69 NRC) and Alabama (\$331.85 NRC v. \$104.17 NRC and \$23.73 RC v. \$16.83). Obviously, with dramatically higher rates on the ISDN loop, Covad cannot justify ordering the ISDN from a pure cost perspective.

The next three concerns focus on the process developed around provisioning and maintaining the UDC/IDSL loop. First, changing the type of loop Covad orders will require training by both BellSouth and Covad. Each time Covad must retrain its employees to order a different loop to serve certain customers, Covad loses some efficiency and momentum. Moreover, as BellSouth itself must admit, asking its technicians to use different procedures for ISDN loop provisioning will likewise have a negative effect on its ability to timely provision loops. With the UDC/IDSL loop, Covad and BellSouth have put together processes to improve the provisioning, including specific information about correct option card settings, slot assignment, and testing. Although they are not perfect, some improvement has been made. If Covad suddenly starts ordering ISDN loops for its IDSL service, BellSouth technicians will be unable to differentiate and may not employ the techniques jointly developed to improve provisioning.


Second, when Ken Ainsworth proposed that we begin ordering the ISDN, he mentioned that the Marconi DLC incompatibility problem had been resolved. Covad's engineers would like more information on this before we make a decision about switching the type of loop we order. Can you provide any technical information that confirms the resolution of this problem? Does this mean that Covad's embedded base of loops ordered as ISDN (before the UDC/IDSL loop was created) are now safe from outside plant rearrangement that previously threatened service on those loops? We need to get information on this new technological development and appreciate anything you can provide.

Finally, because of the UNE loop types available, Covad developed software for pre-ordering through the TAG interface for the UDC/IDSL loop, rather than the ISDN. As a result, even though there is no mechanized ordering for the UDC/IDSL loop, Covad has spent time and money implementing electronic pre-ordering for these loops. After the pre-ordering work functions (address validation and loop make up queries) are complete, these loops fall out for manual order submission by Covad order administration. Because Covad was required to order the UDC/IDSL loop, we built our pre-ordering software for that loop. Switching to the ISDN loop would require additional time and money to redesign Covad software. The interim solution BellSouth proposes does not seem to justify the type of expenditure Covad is being asked to make.

As you can tell, there are contractual and cost obstacles to BellSouth's proposal in addition to serious questions about BellSouth's ability to transition Covad to ISDN loop ordering without any loss of efficiency, speed or reliability. Until Covad can assure itself that the transition to ordering a different loop type will benefit Covad and enable us to offer a high caliber of reliable service, we cannot risk our business on a temporary transition. BellSouth's UNE rates are some of the highest in the nation, particularly the UDC/IDSL and ISDN loops. If BellSouth were willing to make reduction in the recurring rate of the ISDN loops across the region, Covad might be able to justify the additional expense and difficulty involved with switching which loop type it orders. Otherwise, BellSouth has represented that electronic ordering for the UDC/IDSL loop may be available as soon as February 2002. We are hopeful that BellSouth's performance can match these representations.

We are happy to continue to talk about this proposal with you and perhaps you have some further information that would illustrate how the proposal will positively effect Covad's business.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas E. Allen". The signature is fluid and cursive, with a large initial "T" and "A".

Thomas E. Allen
Vice President, ILEC Relations and External Affairs

cc: Ernest Bush